

## **REMARKS**

### **OVERVIEW**

Claims 1-3, 5-18, 20-23, and 25 are pending in this application. Claims 1, 5, 6, 7, 18, and 25 have been amended. Claims 4, 19, 24, 26 and 27 have been cancelled. The present response is an earnest effort to place all pending claims in proper form for immediate allowance. Issuance is therefore respectfully requested.

### **ISSUES UNDER 35 U.S.C. § 102**

Claims 25 and 26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2001/0051881. First, it is respectfully submitted that Filler is not legal prior art under 35 U.S.C. § 102(e). In particular, it is submitted that the present application was filed on November 6, 2001, and is entitled to the priority date of November 6, 2000. Filler was not filed until December 22, 2000, after the priority date of the present application. It is noted that Filler was filed based on Provisional Application No. 60/171,446 filed on December 22, 1999. Thus, such a *prima facie* rejection may be proper if that provisional application disclosed the subject matter which the Examiner relies upon in making the present rejections. That provisional application, which is a mere 4 pages in length, has been obtained and reviewed and it is respectfully submitted that that provisional application does not provide a basis for the Examiner's rejections. Therefore, the Examiner is asked to review Filler's provisional patent application and withdraw the rejections based on Filler, as Filler is not legal prior art to the present application, as to everything in U.S. Patent Application Publication No. 2001/0051881.

In any event, claim 25 has been amended to incorporate limitations from previous claims 26 and 27. Therefore, this rejection to claim 25 must be withdrawn for this independent reason as well.

## **ISSUES UNDER 35 U.S.C. § 103**

Claims 1-3, 8-18, 20-24 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0051881 in view of U.S. Patent Application Publication No. 2002/0082865 to Bianco et al. These rejections are respectfully traversed. As previously discussed, it is submitted that Filler cannot be considered prior art for all purposes.

Filler discloses managing a medical services network. In Filler, enrolled referring physicians have secure access to the physician web site system [paragraph 0016]. A physician is able to refer a patient felt to be in need of the particular diagnostic or medical service via the physician web network [paragraph 0017]. Note that Filler is generally directed towards managing medical information as opposed to managing and enhancing the relationships between a consultant and a referring physician. The claims have been amended to make this significant distinction even clearer. In particular, claim 1 has been amended to further require that the second health care provider be notified "according to a preferred mode of communication setting set by the second health care provider on the web site." In addition, claim 1 has been amended to require "receiving a peer rating from the first health care provider of the second health care provider", the same limitation found in now cancelled claim 4. Neither Filler nor Bianco disclose either of these limitations. Therefore, it is respectfully submitted that this rejection to claim 1 must be withdrawn. As claims 2, 3, and 8-17 depend from claim 1, it is respectfully submitted that these rejections also be withdrawn.

With respect to claim 18, claim 18 has been amended to include the peer review component limitation of now cancelled claim 19 as well as the communication preference of now cancelled claim 24. As the Examiner recognizes, neither Filler nor Bianco et al. disclose the peer review component. Therefore, these rejections must be withdrawn.

With respect to claim 27, claim 27 has been cancelled, but this limitation has been incorporated into claim 25. Thus, claim 25 now requires neither here nor elsewhere does Bianco et al. disclose that such a preference is specified. Bianco et al. simply does not understand the

dynamics of the physician relationships and does not disclose that the web site provides for allowing a consulting physician to set a preferred mode of communications. The fact that Bianco et al. discloses that there are many different types of communication that can be used does not disclose that a consulting physician can set a preferred mode of communication. Allowing the consulting physician to set a preferred mode of communication enhances the relationship between the referring physician and the consultant, which is important in the context of the claimed invention.

Claims 5-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Filler and Bianco et al. as applied to claims 1 and 18 and further in view of U.S. Patent Application Publication No. 2001/0034631 to Kiselik. These rejections are respectfully traversed. Claims 4-7 depend from now cancelled claim 4. Claims 5-7 depend from claim 1. The deficiencies of Filler and Bianco have already been discussed with respect to claim 1. Kiselik does not remedy these deficiencies. Kiselik discloses a rating system but not in the claimed context. Therefore it is respectfully submitted that this rejection to claims 5-7 should also be withdrawn. With respect to claim 19, claim 19 has been cancelled with the limitation from claim 19 incorporated into claim 18. The present invention enhances the relationship between the referring physician and the consultant through improved communication and accommodation of preferences. Neither Filler nor Bianco, nor Kiselik recognize this problem or provide a solution to it. Therefore it is respectfully submitted that these rejections should also be withdrawn.

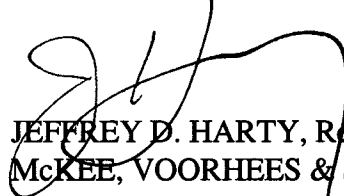
## **CONCLUSION**

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for three months from April 26, 2006 to July 26, 2006. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$510.00 for three months to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider

this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Harty', is written over the printed name and firm name.

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